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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
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| 09/804,654      | 03/12/2001  | Hongyong Zhang       | 07977/097003/US3176D1D1 | 1999             |

7590

01/03/2002

SCOTT C. HARRIS  
Fish & Richardson P.C.  
Suite 500  
4350 La Jolla Village Drive  
San Diego, CA 92122

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FISH & RICHARDSON, P.C.  
LA JOLLA, CA

EXAMINER

ABRAHAM, FETSUM

ART UNIT

PAPER NUMBER

2826

DATE MAILED: 01/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Classified By Practice Systems  
Classification Code: A63P 10/01  
Base Date: 1/3/02  
Due Date: 4/3/02  
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Record: 226488052

Docketed By Billing Secretary ✓  
Date: 4/3/02  
Deadline: J  
Initials: J

# Office Action Summary

Application No.

09/804;654

Applicant(s)

ZHANG, HONGYONG

Examiner

Fetsum Abraham

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37-CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37-CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-17 is/are allowed.
- 6) ☒ Claim(s) 2-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37-CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7 6) ☐ Other:

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**Claims rejection**

The election in paper no. 6 has been acknowledged.

The following non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy so as to prevent unjustified or improper timewise extension of the right to exclude granted by a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968).

Claims 2-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-57 of U.S. patent No. 6,319,761.

As a matter of discussion, claims 2-9 are addressed by claims 1,2,14,40 of the patent. The claimed second region is a stopper of the parallel crystallization in claims 6,8 is also addressed by claims 14,40. This is because crystallization in lateral position must have a stopping point and can not go indefinitely for unlimited lateral distance within the island. Therefore, the region where the lateral expansion stops is the stopping region.

A timely filed terminal disclaimer in compliance with 37 C.F.R. §1.321(b) would overcome the non-statutory double patenting rejection provided the conflicting patent is shown to be commonly owned with this application. See 37 C.F.R. § 11.78(d).

**Claims 10-17 have been allowed.**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Refer to PN: 5,922,125.

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Any inquiry concerning this communication should be directed to Fetsum Abraham at telephone number (703) 305,3793, or by E-mail at *[fetsum.abraham@uspto.gov](mailto:fetsum.abraham@uspto.gov)*.

Any inquiry of a general nature or relating to the status of this application should be directed to the *SPE of AU:2826* at (703)308-6601, or the *Group receptionist* at (703) 308-0956.

Fetsum Abraham

12/20/01